

# United States Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,713	03/04/2004	Masahiro Ishiura	118950	5097
25944 75	90 01/06/2006		EXAMINER	
OLIFF & BERRIDGE, PLC			GABOR, OTILIA	
P.O. BOX 1992			ART UNIT	PAPER NUMBER
ALEXANDRIA	1, VA 22320		2884	TALER NOMBER

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If INO period for reply is specified above, the maximum statutory period unleaving the to reply with the set or extended period for reply by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).  Status  1) Responsive to communication(s) filed on 04 March 2004.  2a) This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-22 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are objected to.  8) Claim(s) is/are objected to.		Application No.	Applicant(s)	· · · · · · · · · · · · · · · · · · ·				
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS DONGER, FROM THE MALLING DATE OF THIS COMMUNICATION.  If NO period for realy is specified above, the macroum statutory pariod vall agents and it specified to be statuted and the specified and		10/791,713	ISHIURA ET AL.	(BW)				
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WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 3° CFR 1136(a). In no event, however, may a reply be timely flicid after SIX (s) MONTHS from the mailing date of this communication, of the six (s) MONTHS from the mailing date of this communication, and the six (s) MONTHS from the mailing date of this communication, over the mailing date of this communication, over the mailing date of this communication, and the mailing date of this communication, and the mailing date of this communication, even if thresh filed, may reduce any seamed pathetic malgitudents. Set 3° CFR 1.76(b).  Status  1) □ Responsive to communication (s) filed on 04 March 2004. 2a) □ This action is FINAL. 2b) □ This action is FINAL. 2b) □ This action is final. 3 □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) □ Claim(s) 1-22 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5 □ Claim(s) 1-32 ka/are rejected. 7 □ Claim(s) 1-32 ka/are rejected to. 8 □ Claim(s) 1-32 ka/are objected to. 9 □ The specification is objected to by the Examiner. 10 □ The drawing(s) filed on 04 March 2004 is/are: a) □ accepted or b) ☑ objected to by the Examiner. Application Papers  9 □ The specification is objected to by the Examiner. 10 □ The oath or declaration is objected to the drawing(s) to held in above, and seed (s) including the corrections required the drawing(s) to depleted to Se 37 CFR 1.121(d). 11) □ The oath or declaration is objected to the training the correction is required if the drawing(s) to depleted to Se 37 CFR 1.121(d). 11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12 ○ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(	The MAILING DATE of this communication ap Period for Reply	pears on the cover shee	et with the correspondence add	ress				
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#### **DETAILED ACTION**

#### **Drawings**

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the details of the drawings are not clearly visible. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### Information Disclosure Statement

2. The information disclosure statement filed 03/31/2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the reference (3) cited under Other Documents has no title, author, etc. listed. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

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### Claim Objections

3. Claims 1-20 are objected to because of the following informalities: in claims 1, 3, 5, 9 the claim to "another luminescence measurement result group" lacks antecedent basis (the claim is only to a "newer luminescence measurement group" in claim 1); in claims 3 and 4 it is unclear whether both the first and second (another) luminescence measurement result groups are stored or just the first one; in claims 5 and 6 it is unclear what rhythm is analyzed (it says "at least one of" but then it claims both luminescence results); in claim 9 it is unclear what measurement is outputted; in claims 11, 17 it is unclear what it means to "displaying a displaying and maintaining means to display and maintain" (why does the displaying and maintaining means need to be displayed in order to display?), and what is the significance of the phrase "sorting as time series data" (this seems to be a misplaced method step in an apparatus claim); in claims 2, 12, 18 it is unclear what is compared with what; in claims 13, 19 spelling error "a the steps of". Appropriate correction is required.

The rest of the claims are objected to as being dependent from an objected claim.

### Claim Rejections - 35 USC § 112

- 4. The following is a quotation of the second paragraph of 35 U.S.C. 112:
  The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 5. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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It is unclear what claim 1 claims: the claim asks for sorting as time series data and displaying in real-time the said luminescence measurement result group as well as sorting as time series data and displaying the another newer luminescence measurement result group, but then the claim goes on to say "instead of said luminescence measurement result group". It is unclear what exactly is displayed and maintained.

In claim 2 the same unclear limitation is present. Additionally, it is unclear in claim 2 what exactly is compared in real time.

Therefore, claims 1-10 were not examined on their merit.

Claims 3-10 were rejected based on their dependence from a rejected claim.

## Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- 7. Claims 11-22 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Allen et al. ("Real-time analysis of rhythmic gene expression in immortalized suprachiasmatic nucleus cells").

Allen discloses an apparatus and program for measuring and analyzing bioluminescence, the apparatus comprising: a receiving means to receive luminescence measurement result groups in real-time from a sample group of organisms and a

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measurement results. Allen discloses that the luminescence measurement results are stored and compared to each other. Allen also discloses an analyzing means to analyze the rhythm of the luminescence measurements and a screening means. The results are outputted. See especially Fig.2 and corresponding description.

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#### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Otilia Gabor whose telephone number is 571-272-2435. The examiner can normally be reached on Monday-Friday between 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on 571-272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Otilia Gabor

**Primary Examiner**